IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

Crl.MC.No. 132 of 2007()

ST.446/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR
CRIME NO.277/04 OF VADUKKUMCHERY POLICE STATION.

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PETITIONER: ACCUSED:

ABDUL KHADER, AGED 35 YEARS,
S/O.CHINNA KANNU, PEZHUKURA HOUSE,
KONDAZHY, PALAKKAD DISTRICT.

BY ADV. SRI.P.K.ASHOKAN
SMT.DHANYA P.ASHOKAN

RESPONDENTS:

STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY P.P. SMT. LATHA.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 132 OF 2007

Dated this the 16th day of January, 2007

ORDER

The petitioner is accused No.9 in a prosecution for the offences punishable, inter alia, under Secs.160 and 283 read with Sec.149 of the IPC. When the matter stood posted for trial to 12/12/06, the petitioner was absent. The learned Magistrate rejected the application filed on behalf of the petitioner and directed issue of non-bailable warrant of arrest against the petitioner.

2. The petitioner now wants to surrender before the learned Magistrate. He apprehends that if he appears, the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. He may be compelled to remain in custody for some period of time before his application for bail is considered and disposed of on merits. He has therefore come to this Court with a prayer that directions under Sec.482 of the Cr.P.C. may be issued to the learned Magistrate to release him on bail when he appears

and applies for bail. The case now stands posted to 25/1/2007.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. to Judge